

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

CLERK'S OFFICE U.S. DISTRICT COURT
AT ABINGDON, VA
FILED

**ASHLEY BROOKE KOHLER,
Administrator of the Estate of
JONATHEN BLAKE KOHLER,
deceased**

Plaintiff,

v.

**JOHNATHAN RICHARD BROWN,
individually, and in his official capacity
as a police officer of the City of
Bristol, Virginia
Defendant.**

MAY 12 2021

JULIA C. DUDLEY CLERK
BY: *D. C. CLARK*
DEPUTY CLERK

**Civil Action No:
JURY DEMANDED**

COMPLAINT

Comes the Plaintiff, **ASHLEY BROOKE KOHLER**, Administrator of the Estate of **JONATHEN BLAKE KOHLER**, deceased, by and through counsel, and for cause of action against the Defendant, **JOHNATHAN RICHARD BROWN**, individually, and in his official capacity as a police officer of the City of Bristol, Virginia, would show this Honorable Court as follows:

STATEMENT OF FEDERAL QUESTION JURISDICTION

Pursuant to 42 U.S.C. §§ 1331, 1343, this Court has subject matter jurisdiction in this case as to the 42 U.S.C. §§ 1983, 1988 claims made herein against the Defendant.

STATEMENT OF VENUE

Venue is proper in this Court under 28 U.S.C. §1391(b) because all incidents, events, and occurrences giving rise to this action occurred in the Western District of Virginia.

FACTUAL ALLEGATIONS

1. The Plaintiff is **ASHLEY BROOKE KOHLER**, Administrator of the Estate of **JONATHEN BLAKE KOHLER** (hereinafter, "Mr. Kohler"), deceased. Ms. Kohler was duly appointed administrator by the Circuit Court for the City of Bristol, Virginia, on May 10, 2021. A copy of her certificate/letter of qualification is attached as Ex. 1 to this Complaint. Ms. Kohler is a United States citizen and resident of Sullivan County, Tennessee. At all relevant times up until the time of his death on March 30, 2021, Mr. Kohler was a United States citizen and resident of Sullivan County, Tennessee. Mr. Kohler's minor children are the sole next-of-kin and beneficiaries of his estate.

2. The Defendant, **JOHNATHAN RICHARD BROWN**, is a resident of Sullivan County, Tennessee, and at all times pertinent to this cause of action, was acting individually and/or under color of state law as a duly appointed and sworn police officer of the Bristol Virginia Police Department, a department of the City of Bristol, Virginia, a municipality organized and existing under the laws of the Commonwealth of Virginia.

3. On March 30, 2021, in the parking lot of Rodeway Inn near the intersection of Euclid Avenue and Gate City Highway in the City of Bristol, Virginia, the Defendant, while acting individually and as a sworn police officer for the City of Bristol, Virginia, discharged his service firearm and shot and killed Mr. Kohler, without legal justification or excuse.

4. On May 3, 2021, based on investigation by the Virginia State Police, a Grand Jury of the Circuit Court for the City of Bristol, Virginia indicted Mr. Brown for the unlawful killing of Mr. Kohler in three indictments. The three indictments are collectively attached as Ex. 2 to this Complaint and are incorporated herein by reference.

5. This cause of action is for money damages brought pursuant to 42 U.S.C. §1983 to redress the deprivation under color of state law of Mr. Kohler's clearly established rights as secured by the Fourth and Fourteenth Amendments to the United States Constitution.

6. As a direct and proximate result of the acts and omissions described herein, Mr. Kohler suffered compensatory and special damages as defined under federal common law and in an amount to be determined by jury.

7. Punitive damages are available against the Defendant and are hereby claimed as a matter of federal common law under Smith v. Wade, 461 U.S. 30 (1983).

8. Plaintiff is entitled to recovery of costs, including reasonable attorneys' fees, under 42 U.S.C. § 1988.

9. The conduct described in all of the preceding paragraphs amount to wrongful acts and omissions causing the death of Mr. Kohler for purposes of sections 8.01-50 and 8.01-52 of the Virginia Code, damages for which are recoverable under 42 U.S.C. §§ 1983, 1988.

10. As a direct and proximate result of these wrongful acts and omissions, section 8.01-52 of the Virginia Code provides for the award of the following damages to the Plaintiff estate for its minor children beneficiaries:

§ 8.01-52. Amount of damages.

The jury or the court, as the case may be, in any such action under § 8.01-50 may award such damages as to it may seem fair and just. The verdict or judgment of the court trying the case without a jury shall include, but may not be limited to, damages for the following:

- 1. Sorrow, mental anguish, and solace which may include society, companionship, comfort, guidance, kindly offices and advice of the decedent;*
- 2. Compensation for reasonably expected loss of (i) income of the decedent and (ii) services, protection, care and assistance provided by the decedent;*
- 3. Expenses for the care, treatment and hospitalization of the decedent incident to the injury resulting in death;*
- 4. Reasonable funeral expenses; and*
- 5. Punitive damages may be recovered for willful or wanton conduct, or such recklessness as evinces a conscious disregard for the safety of others.*

RELIEF SOUGHT

The Plaintiff, **ASHLEY BROOKE KOHLER**, Administrator of the Estate of **JONATHEN BLAKE KOHLER**, deceased, prays for a money judgment against the Defendant, **JOHNATHAN RICHARD BROWN**, for compensatory, special, and punitive damages together with costs and disbursements, including reasonable attorneys' fees, under 42 U.S.C. §§ 1983, 1988, and prejudgment interest. Plaintiff also seeks general relief. A jury is demanded.

**ASHLEY BROOKE KOHLER,
Administrator of the Estate of
JONATHEN BLAKE KOHLER,
Deceased**

/s/ Timothy W. Hudson
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